



Paper No. 7

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OFFICE OF PETITIONS

In re Application of
Johansson, et al.
Application No. 09/994,803
Filed: November 28, 2001
Atty Docket No. 040000-854

DECISION ON PETITION

This is a decision on the petition filed February 4, 2002¹, entitled "Petition to the Commissioner for Acceptance of Resubmitted Formal Drawings and Request that A Filing Date of November 28, 2001 be Accorded Under 37 C.F.R. §§1.53(e) and 1.17(h), along with a Request for Refund."

Application papers in the above-identified application were filed on November 28, 2001. However, on December 10, 2001, the Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings.

In reply, applicants timely filed the instant petition. Therein, applicants respectively submit that 13 sheets of drawings were submitted with patent application no. 09/994,803 on November 28, 2001 and respectively request that the original filing date of November 28, 2001 be accorded to the patent application. In support thereof, petitioner submitted *inter alia* a copy of the front and back of their return postcard receipt listing among the enclosures "Drawings (Fig(s). 1- 8E, 13 pgs.)," identifying this application by assignment of serial number 09/994,803, bearing a United States Patent and Trademark Office receipt date-stamp of November 28, 2001, and lacking any notation of non-receipt of any item listed. On petition, applicants submit a copy of the 13 sheets of drawings as they maintain they were filed on November 28, 2001.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicant has shown that the application as filed on November 28, 2001 included thirteen sheets of formal drawings, and thus, is entitled to a filing date of November 28, 2001.

In view thereof, the petition is GRANTED.

¹ This is a duplicate of the petition filed December 28, 2001, but not received in the Office of Petitions until April 15, 2002.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 02-4800 as requested.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of November 28, 2001, using the application papers received in the Office on that date and the thirteen (13) sheets of formal drawings resubmitted on petition filed February 4, 2002.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.



Beverly M. Flanagan
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for Patent Examination Policy